



CONTRACT LAW DIVISION

Office of Assistant General Counsel for Finance and Litigation



Biweekly Report—Period Ending October 9, 1999

Aspen Helicopters, Inc. v. DoC, GSBICA

No. 13258-COM

GSBICA denied the appeal by decision issued on September 30, 1999. The Board held that under the standard option clause language, the Government, at its discretion, has a broad, unilateral right to either exercise the option periods or not. The Board also adopted respondent's argument that appellant's claims of superior knowledge, duty to communicate and negligent misrepresentation are not applicable to the facts of this case. (Terry H. Lee; Amy L. Freeman-Pierce).

Protest of ViON Corporation—GAO No. B-283804.1

ViON Corporation has filed a GAO protest against the award of a \$8 million PTO purchase order for maintenance services of PTO data storage devices. Although the award was made against the awardee's (EMC Corporation) GSA Schedule, ViON is alleging, among other things, that PTO has violated the requirement of full and open competition. (Lisa J. Obayashi)

Computer & Hi-Tech Mgmt., Inc. v. DoC, B-283137-4

Another protest against the COMMITS procurement. Protestor alleges government failure to evaluate its "entire" proposal. Protestor also claims that its failure to include information in the proposal relating to QRCs was a minor informality or irregularity that could have been waived by the CO. Protestor also claims that government failed to provide it the opportunity to make an oral presentation. Protestor demands the opportunity to make an oral presentation, have its proposal re-evaluated and then receive an award. (Terry H. Lee).

DRC v. DOC (GSBICA No. 14919-COM)

Settlement discussions with counsel for DRC have not been successful. We are working with the Jeffersonville procurement staff to prepare for the hearing next week in South Bend, Indiana. (Amy Freeman and Fred Kopatich)

Office of Federal Contract Compliance Issue

We recently advised NOAA regarding an allegation of employment discrimination by a NOAA contractor. Because this is rather rare we reviewed the procedures for such cases.

All federal contracts in excess of \$10,000 to be performed

within the United States are required to contain provisions mandating contractor compliance with Executive Order 11246. FAR 22.810(e). E.O. 11246 and the implementing contract provisions require the contractor to initiate an affirmative action program and prohibit discrimination against any employee or applicant for employment because of race, religion, sex, or national origin with respect to employment, recruitment, pay, promotions and training. The U.S. Department of Labor's Employment Standards Administration's Office of Federal Contract Compliance Program (OFCCP) is responsible for administering and enforcing the requirements of E.O. 11246.

Complaints alleging violation of E.O. 11246 by a government contractor must be referred to the OFCCP regional office, pursuant to FAR 22.808. The complainant should be advised in writing of the referral. The contractor that is complained of must not be advised of the complainant's name, the nature of the complaint or of the fact that the complaint was received. FAR 22.808. (Jerry Walz, Amy Crotts)

CLD "Time to Complete"—1.2 Days

Actions by Contract Law Division during Period from 9/26/1999 10/09/1999

Bureau	Received	Completed
BXA	1	1
CENSUS	4	4
NIST	8	8
NOAA	13	11
Totals	26	24

Contract Law Division—Client Workload
Period Ending 10/09/99

